

(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.

(Added Pub. L. 109–59, title IV, § 4206(b)(1), Aug. 10, 2005, 119 Stat. 1755; amended Pub. L. 109–115, div. A, title I, § 173(c), (d), Nov. 30, 2005, 119 Stat. 2426.)

AMENDMENTS

2005—Subsec. (b)(1). Pub. L. 109–115, § 173(c), (e), temporarily inserted at end “The State may initiate a civil action under subsection (a) if it is reviewable under subsection (b)(2).” See Termination Date of 2005 Amendment note below.

Subsec. (b)(4). Pub. L. 109–115, § 173(d), (e), temporarily inserted “that is subject to review under subsection (b)(2)” before “if the Secretary”. See Termination Date of 2005 Amendment note below.

TERMINATION DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–115 to cease to be in effect after Sept. 30, 2006, see section 173(e) of Pub. L. 109–115, set out as a note under section 14710 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.	
14901.	General civil penalties.
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AMENDMENTS

2012—Pub. L. 112–141, div. C, title II, § 32919(b), July 6, 2012, 126 Stat. 827, added item 14916.

2005—Pub. L. 109–59, title IV, § 4210(b), Aug. 10, 2005, 119 Stat. 1759, added item 14915.

§ 14901. General civil penalties

(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or

the Board, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

- (1) does not make the report;
- (2) does not specifically, completely, and truthfully answer the question;
- (3) does not make, prepare, or preserve the record in the form and manner prescribed;
- (4) does not comply with section 13901; or
- (5) does not comply with section 13902(c);

is liable to the United States for a civil penalty of not less than \$1,000 for each violation and for each additional day the violation continues; except that, in the case of a person or an officer, agent, or employee of such person, that does not comply with section 13901 or section 13902(c) of this title, the amount of the civil penalty shall not be less than \$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers.

(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not less than \$20,000, but not to exceed \$40,000 for each violation.

(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—

(1) IN GENERAL.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Board relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than \$1,000 for each violation and for each additional day during which the violation continues.

(2) ESTIMATE OF BROKER WITHOUT CARRIER AGREEMENT.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is lia-

ble to the United States for a civil penalty of not less than \$10,000 for each violation.

(3) **UNAUTHORIZED TRANSPORTATION.**—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than \$25,000 for each violation.

(e) **VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.**—Any person that knowingly engages in or knowingly authorizes an agent or other person—

(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than \$2,000 for each violation and of not less than \$5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

(f) **VENUE.**—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

(1) the carrier or broker has its principal office;

(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

(3) the violation occurred; or

(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

(g) **BUSINESS ENTERTAINMENT EXPENSES.**—

(1) **IN GENERAL.**—Any business entertainment expense incurred by a water carrier providing transportation subject to this part shall not constitute a violation of this part if that expense would not be unlawful if incurred by a person not subject to this part.

(2) **COST OF SERVICE.**—Any business entertainment expense subject to paragraph (1) that is paid or incurred by a water carrier providing transportation subject to this part shall not be taken into account in determining the cost of service or the rate base for purposes of section 13702.

(h) **SETTLEMENT OF CIVIL PENALTIES.**—Nothing in this section shall be construed to prohibit the Secretary from accepting partial payment of a civil penalty as part of a settlement agreement in the public interest, or from holding imposition of any part of a civil penalty in abeyance.

(Added Pub. L. 104-88, title I, §103, Dec. 29, 1995, 109 Stat. 913; amended Pub. L. 109-59, title IV, §4209, Aug. 10, 2005, 119 Stat. 1758; Pub. L.

112-141, div. C, title II, §§32108, 32923(a), July 6, 2012, 126 Stat. 782, 828; Pub. L. 114-94, div. A, title V, §5508(a)(4), (b)(1), Dec. 4, 2015, 129 Stat. 1554.)

REFERENCES IN TEXT

The Solid Waste Disposal Act, referred to in subsec. (b), is title II of Pub. L. 89-272, as amended generally by Pub. L. 94-580, §2, Oct. 21, 1976, 90 Stat. 2795, which is classified generally to chapter 82 (§6901 et seq.) of Title 42, The Public Health and Welfare, Section 3001 of the Act is classified to section 6921 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 10751 and 11901 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §5508(b)(1), amended Pub. L. 112-141, §32108(a)(4). See 2012 Amendment note below.

Subsec. (h). Pub. L. 114-94, §5508(a)(4), struck out “Household Goods” after “Settlement of” in heading.

2012—Subsec. (a). Pub. L. 112-141, §32108(a)(4), as amended by Pub. L. 114-94, §5508(b)(1), substituted “\$10,000 for each violation, or \$25,000 for each violation relating to providing transportation of passengers” for “\$2,000 for each violation and for each additional day the violation continues” in concluding provisions.

Pub. L. 112-141, §32108(a)(1)–(3), substituted “\$1,000” for “\$500” and “or section 13902(c) of this title,” for “with respect to providing transportation of passengers,” and struck out “who is not registered under this part to provide transportation of passengers,” after “in the case of a person” in concluding provisions.

Subsec. (b). Pub. L. 112-141, §32108(b), substituted “not less than \$20,000, but not to exceed \$40,000” for “not to exceed \$20,000”.

Subsec. (h). Pub. L. 112-141, §32923(a), added subsec. (h).

2005—Subsec. (d). Pub. L. 109-59 designated existing provisions as par. (1), inserted heading, and added pars. (2) and (3).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by section 5508(a)(4) of Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

Pub. L. 114-94, div. A, title V, §5508(b), Dec. 4, 2015, 129 Stat. 1554, provided that the amendment made by section 5508(b)(1) is effective as of July 6, 2012, and as if included in Pub. L. 112-141 as enacted.

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE

Chapter effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS

Pub. L. 106-159, title II, §219, Dec. 9, 1999, 113 Stat. 1768, provided that:

“(a) **GENERAL RULE.**—Subject to subsections (b) and (c), a foreign motor carrier or foreign motor private carrier (as such terms are defined under section 13102 of title 49, United States Code) that operates without authority, before the implementation of the land trans-

portation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border shall be liable to the United States for a civil penalty and shall be disqualified from operating a commercial motor vehicle anywhere within the United States as provided in subsections (b) and (c).

“(b) PENALTY FOR INTENTIONAL VIOLATION.—The civil penalty for an intentional violation of subsection (a) by a carrier shall not be more than \$10,000 and may include a disqualification from operating a commercial motor vehicle anywhere within the United States for a period of not more than 6 months.

“(c) PENALTY FOR PATTERN OF INTENTIONAL VIOLATIONS.—The civil penalty for a pattern of intentional violations of subsection (a) by a carrier shall not be more than \$25,000 and the carrier shall be disqualified from operating a commercial motor vehicle anywhere within the United States and the disqualification may be permanent.

“(d) LEASING.—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

“(e) SAVINGS CLAUSE.—No provision of this section may be enforced if it is inconsistent with any international agreement of the United States.

“(f) ACTS OF EMPLOYEES.—The actions of any employee driver of a foreign motor carrier or foreign motor private carrier committed without the knowledge of the carrier or committed unintentionally shall not be grounds for penalty or disqualification under this section.”

§ 14902. Civil penalty for accepting rebates from carrier

A person—

(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 915.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11902 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

§ 14903. Tariff violations

(a) CIVIL PENALTY FOR UNDERCHARGING AND OVERCHARGING.—A person that offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at a rate different than the rate in effect under section 13702 is liable to the United States for a civil penalty of not more than \$100,000 for each violation.

(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined under title 18 or imprisoned not more than 2 years, or both.

(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

(Added Pub. L. 104-88, title I, § 103, Dec. 29, 1995, 109 Stat. 915; amended Pub. L. 105-102, § 2(12), Nov. 20, 1997, 111 Stat. 2205.)

HISTORICAL AND REVISION NOTES

PUB. L. 105-102

This amends 49:14903(a) to correct a grammatical error.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11903 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, § 102(a).

AMENDMENTS

1997—Subsec. (a). Pub. L. 105-102 inserted “a” before “civil penalty of not more than”.

§ 14904. Additional rate violations

(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

(1) offers, grants, gives, solicits, accepts, or receives a rebate for concession, in violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

is liable to the United States for a civil penalty of \$200 for the first violation and \$250 for a subsequent violation.

(b) UNDERCHARGING.—

(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight for-